

**SUMMONS**

E-FILED | 7/1/2025 4:01 PM  
 CC-27-2025-C-43  
 McDowell County Circuit Clerk  
 Francine Spencer

---

**IN THE CIRCUIT COURT OF MCDOWELL COUNTY, WEST VIRGINIA**

**James Cox v. Andrew Mullins**

Service Type: Filer - Private Process Server

NOTICE TO: Andrew Mullins, 3471 Steeles Hollow Road, Iaeger, WV 24844

THE COMPLAINT WHICH IS ATTACHED TO THIS SUMMONS IS IMPORTANT AND YOU MUST TAKE IMMEDIATE ACTION TO PROTECT YOUR RIGHTS. YOU OR YOUR ATTORNEY ARE REQUIRED TO FILE THE ORIGINAL OF YOUR WRITTEN ANSWER, EITHER ADMITTING OF DENYING EACH ALLEGATION IN THE COMPLAINT WITH THE CLERK OF THIS COURT. A COPY OF YOUR ANSWER MUST BE MAILED OF HAND DELIVERED BY YOU OR YOUR ATTORNEY TO THE OPPOSING PARTY'S ATTORNEY:

Mark Atkinson, 2306 KANAWHA BLVD E., CHARLESTON, WV 25311

THE ANSWER MUST BE MAILED WITHIN 30 DAYS AFTER THIS SUMMONS AND COMPLAINT WERE DELIVERED TO YOU OR A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE MONEY OR OTHER THINGS DEMANDED IN THE COMPLAINT.

---

SERVICE:

7/1/2025 4:01:21 PM

Date

/s/ Francine Spencer

Clerk

---

RETURN ON SERVICE:

☐ Return receipt of certified mail received in this office on \_\_\_\_\_

☐ I certify that I personally delivered a copy of the Summons and Complaint to \_\_\_\_\_

☐ I certify that I personally delivered a copy of the Summons and Complaint to the individual's dwelling or usual place of abode to \_\_\_\_\_, someone who is eighteen (18) years of age or above and resides there.

☐ Not Found in Bailiwick

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Server's Signature

IN THE CIRCUIT COURT OF MCDOWELL COUNTY, WEST VIRGINIA

JAMES COX,

Plaintiff,

v.

CIVIL ACTION NO.:

ANDREW MULLINS,

Defendant.

**COMPLAINT**

---

Comes now the plaintiff, James Cox, and for his cause of action against the defendant states as follows:

**PARTIES**

1. The plaintiff, James Cox, is a resident of Raleigh County, West Virginia.
2. Upon information and belief, Andrew Mullins is a resident of McDowell County, West Virginia.
3. Venue in this case is proper in McDowell County, West Virginia.
4. The Circuit Court of McDowell County, West Virginia has jurisdiction over the defendant and the causes of action set forth in this Complaint.

**FACTS**

5. On July 8, 2024, the plaintiff, James Cox was employed by Bluestone Coal Corporation and was working at the Bluestone Mine in Pineville, West Virginia.
6. The plaintiff, James Cox, is an African-American.

7. On the day of July 8, 2024, Andrew Mullins was employed by the Federal Mine Safety and Health Administration and was performing an inspection at the Bluestone Mine in Pineville, West Virginia.

8. During his inspection, the defendant, Andrew Mullins, spoke with the plaintiff, James Cox.

9. On July 8, 2024, Defendant Andrew Mullins also had a conversation with the plaintiff's mine foreman, Jeremy Marughjia. In his conversation with the mine foreman, Defendant Andrew Mullins referred to Plaintiff James Cox as "that n \_ \_ \_ \_". The plaintiff, James Cox, heard the defendant, Andrew Mullins, refer to Mr. Cox as "that n \_ \_ \_ \_".

10. This incident was reported to the Federal Mine Safety and Health Administration.

COUNT ONE  
(Human Rights Act)

11. The actions of Defendant Andrew Mullins violate the West Virginia Human Rights Act in that Defendant Andrew Mullins is a "person" under the West Virginia Human Rights Act who engaged in an activity which harassed, degraded and embarrassed the plaintiff, James Cox.

12. As a direct and proximate result of the defendant's actions, plaintiff is entitled to damages for indignity, embarrassment and humiliation in an amount to be determined by the jury.

13. Defendant acted with actual malice toward the plaintiff or a conscious, reckless and outrageous indifference to the health, safety and welfare of others warranting an assessment of punitive damages against the defendant.

14. Defendant's actions were willful and malicious and violated the West Virginia Human Rights Act entitling the plaintiff to attorney fees and costs pursuant to West Virginia Code §5-11-13 and/or the decisions of the West Virginia Supreme Court of Appeals.

COUNT TWO  
(Tort of Outrage)

15. The defendant's actions against the plaintiff in this case constitute a claim for the Tort of Outrage in that:

- a. The defendant's conduct was atrocious, intolerable and so extreme and outrageous as to exceed the bounds of decency;
- b. The defendant acted recklessly as it was substantially certain emotional distress would result from his conduct in that the plaintiff would hear the defendant's language or the plaintiff's supervisor would have shared the defendant's language;
- c. The actions of the defendant caused the plaintiff to suffer emotional distress; and
- d. Emotional distress suffered by the plaintiff was so severe that no reasonable person could be expected to endure it.

16. As a direct and proximate result of the defendant's actions, plaintiff is entitled to damages for indignity, embarrassment and humiliation in an amount to be determined by the jury.

17. Defendant acted with actual malice toward the plaintiff or a conscious, reckless and outrageous indifference to the health, safety and welfare of others warranting an assessment of punitive damages against the defendant.

18. Defendant's actions were willful and malicious and violated the West Virginia Human Rights Act entitling the plaintiff to attorney fees and costs pursuant to West Virginia Code §5-11-13 and/or the decisions of the West Virginia Supreme Court of Appeals.

WHEREFORE, plaintiff prays for the following relief:

1. **Damages set forth in this Complaint, including an award for embarrassment, humiliation, emotional distress and punitive damages in an amount to be determined by the jury;**
3. **Attorney fees and costs; and**
4. **Such further relief as this court may deem just and equitable.**

PLAINTIFF DEMANDS A JURY TRIAL ON ALL ISSUES TRIABLE TO A JURY.

**JAMES COX**  
**By Counsel**

/s/ Mark A. Atkinson

**Mark A. Atkinson (WVSB #184)**  
**ATKINSON & FRAMPTON, PLLC**  
**2306 Kanawha Boulevard East**  
**Charleston, WV 25311**  
**(304) 346-5100**  
[emboles@amplaw.com](mailto:emboles@amplaw.com)